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C O N F I D E N T I A L BOGOTA 000125

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E.O. 12958: DECL: 2020/02/02

TAGS: PGOV PHUM PREL CO

SUBJECT: SUPREME COURT INCHING TOWARDS DECISION ON PROSECUTOR GENERAL

REF: 09 BOGOTA 3521

CLASSIFIED BY: Mark A. Wells, Political Counselor; REASON: 1.4(B),  
(D)

SUMMARY

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¶1. (SBU) On January 28 the Supreme Court convened a session to vote on a new Prosecutor General (Fiscal General), though it failed to reach the required votes to make a selection and will reconvene February 4. The move suggests that the Court has abandoned its argument that President Uribe's "terna" (a list of three candidates) was not viable because the nominees lacked criminal law experience, and will select a candidate from the existing slate. Following several rounds of voting in which candidate Marco Velilla garnered the least number of votes, the emerging frontrunners are former Uribe Minister of Defense and OAS Ambassador Camilo Ospina and Margarita Cabello, who if elected would be the first female in the job. End Summary.

STILL NO FISCAL AFTER MULTIPLE VOTES

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¶2. (SBU) After a supposedly secret Court session, press reports gave blow-by-blow details about why none of the candidates won the required 16 votes following three hours of voting and deliberation. (Note: The Supreme Court requires 16 votes to elect a new Fiscal General, but this rule is not included in the Constitution. End Note.) In the first round, Cabello won five votes, Ospina four and Velilla three with eight magistrates abstaining, prompting Supreme Court President Augusto Ibanez to call for a second round between only Cabello and Ospina. In the second round, Cabello won 11 votes and Ospina three with ten magistrates continuing to abstain. Oddly enough, the tally flipped in the third round with Cabello winning 10 votes and Ospina 11. Rather than press the magistrates to conclusion, Ibanez postponed the final vote to February 4. (Note: The magistrates also failed to elect a new Supreme Court President, the odds-on favorite for which is current Vice President Jaime Arrubla. End Note.)

WHO'S LEFT?

¶3. (C) Never one to shy away from the media, on January 29, Ibanez gave a radio interview, claiming that the Court had never insisted that the next Fiscal General be experienced in criminal law - even though two of the candidates voted on (Ospina and Velilla) were included in short lists that the Court had previously refused to consider. Given the Court's misgivings about Ospina and Velilla, it would stand to reason that Cabello would be the frontrunner because she was not included on any of the prior "unviable" slates. She is a successful attorney who has taught at various Colombian universities, has worked as a magistrate, and has more than 20 years of experience in family and procedural law. If Cabello were elected, it would be the first time the Court had selected a woman despite a law requiring that all short lists submitted for the position include at least one female. Ospina, on the other hand, is perceived by most magistrates as too closely aligned with Uribe - having served as his Legal Advisor, Minister of Defense and Ambassador to the OAS. Magistrates have questioned whether Ospina could objectively investigate, for example, cases of military abuse that occurred during his tenure as Minister of Defense.

WHAT HAPPENS NEXT?

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¶4. (C) It is clear that the Court has had some discussions behind the scenes with the Executive Branch over resolving the six-month impasse. It is not clear, however, whether the Court will reach a majority decision on February 4 or whether it will opt to postpone

the matter until after the presidential election; it took the Court more than four months and 200 votes to select its current president. Meanwhile, the Prosecutor General's Office has just completed six months under a caretaker administration, which continues to have negative effects on the institutional strength of the organization.

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